
Summary of main provisions relevant to former set-aside land

Anyone wishing to undertake a relevant project must apply to Natural England for a screening decision to consider whether the project is likely to have a significant effect on the environment. If not, the project is allowed to proceed. But if significant effects are likely, the applicant must prepare an Environmental Impact Assessment (EIA).

Land is considered to be “uncultivated land” if it has not been cultivated in the previous 15 years. This may have involved physical cultivation such as ploughing and sub-surface harrowing, or chemical cultivation such as application of organic or inorganic fertilisers and pesticides/herbicides. Much uncropped or set-aside land is likely to be deemed to have been “cultivated” within the last 15 years.

It is unlikely that much set-aside land would qualify as a “semi-natural area”, unless it was well on the way to being semi-natural before it became set-aside. Projects involving land under the 2 ha threshold (but not incrementally expanding projects) are not normally caught by the Regulations.

Land formerly in set-aside would be treated like any other land under the Regulations. EIA would offer some protection to set-aside which has not been cultivated for 15 years or more.